

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

ARTURO PASCUAL and GLORIA E.  
PASCUAL,

Plaintiffs,

Civ. No. 11-3130-CL

**TEMPORARY RESTRAINING ORDER**

v.

HSBC BANK, USA NATIONAL  
ASSOCIATION and RECONTRUST  
COMPANY, N.A.,

Defendants.

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**PANNER, J.**

Plaintiffs seek an ex parte temporary restraining order to enjoin the foreclosure sale of their house. Plaintiffs allege the house is scheduled for a foreclosure sale on November 7, 2011 and defendants have not complied with the legal requirements for a

valid non-judicial foreclosure. Specifically, plaintiffs allege defendants failed to record all assignments of the trust deed in the county land records prior to initiating the foreclosure proceedings. In Oregon, a party initiating non-judicial foreclosure proceedings must record all assignments of the trust deed. ORS 86.735(1); Hooker v. Northwest Trustee Services, Inc., 2011 WL 2119103, \*3 (D. Or. May 25) (citing Burgett v. MERS, 2010 WL 4282105, at \*2 (D. Or. Oct. 20) and In re McCoy, 2011 WL 477820, at \*3-4 (Bankr. D. Or. Feb. 7)).

Because of the alleged imminent foreclosure sale, and because plaintiffs allege specific facts that, if true, create serious questions as to whether defendants complied with the recording requirements of the Oregon Trust Deed Act, I grant plaintiff's request for a temporary restraining order (#3). I note plaintiffs also allege the lender at issue filed for bankruptcy protection and then liquidated all of its assets over two years prior to the date it purportedly assigned the deed of trust to HSBC.

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Defendants, and their officers, agents, etc..., and other persons in active concert or participation with defendants, who receive actual notice of this order, are restrained from conducting a foreclosure sale for the following property: 178 E. Nevada Street, Ashland, Oregon, from this day until November 16, 2011, at 5:00 p.m. This court will hold a hearing on whether to issue a preliminary injunction at 9:30 a.m. on November 16, 2011, in Medford.

IT IS SO ORDERED.

DATED this 3 day of November, 2011 at 10:00.m.

A handwritten signature in black ink, reading "Owen M. Panner", written over a horizontal line.

OWEN M. PANNER  
U.S. DISTRICT JUDGE